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DEPARTMENT FOR EUR/WE
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PARIS FOR NASA EUROPEAN OFFICE - DMILLER

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SUBJECT: ITALIAN SPACE AGENCY'S AGILE LAUNCH: RATIONALE FOR
DISREGARDING U.S. EXPORT CONTROL REGULATIONS

REF: A. ROME 1168

- [1](#)B. STATE 71981
- [1](#)C. ROME 860
- [1](#)D. ROME 310
- [1](#)E. 2006 ROME 1585

Classified By: Ecmin Thomas L. Delare for reasons 1.4 (b) and (d)

[1](#)1. (U) This is an action request. Please see paragraph 13.

[1](#)2. (C) Summary. Separate discussions at the Ministry of Foreign Affairs, Ministry of Universities and Research, and the Italian Space Agency (ASI) indicate that the decision to proceed with the launch of ASI's AGILE satellite from India, despite USG export control concerns and allegedly contrary advice from both ministries, was made at ASI. Newly-installed ASI President Giovanni Bignami denied any wrong-doing, however, and provided copies of documents that he claimed show State Department approval of the re-export to India of a satellite component included in the U.S. Munitions List (USML). These documents were previously seen by us and do not, in themselves, provide authorization. Bignami conceded that the authorization was possibly ambiguous, but claimed the decision to launch was an appropriate response to a bureaucratic error on the U.S. side and lack of formal written communication from Washington. Bignami expressed his hope that the legal status of the USML item's re-export to and launch from India can be clarified, removing any barriers to cooperation between ASI and NASA. Bignami would also like to clear the air prior to the June 18-24 Paris Air Show, at which he will meet NASA Administrator Michael Griffin. Embassy concurs with utility of clarifying the legal status of the USML export as an appropriate first step to securing a serious review of GOI treatment of controlled items, including by "autonomous agencies" of the Italian Government. End summary.

All Roads Lead To ASI

[1](#)3. (C) In meetings with officials at the Ministry of Foreign Affairs (MFA) (reported ref B) and Ministry of Universities and Research (MUR) on May 29 and 30, MFA and MUR officials outlined internal GOI deliberations in the weeks leading up to the April 23 launch of ASI's AGILE research satellite from Sriharikota, India. Both Giovanni Manfredi, the MFA official responsible for Space and Science and Technology Cooperation, and Domenico Giorgi, Diplomatic Advisor to the Minister of Universities and Research, stressed that because ASI is an independent agency, it "has the power to implement any activity," and does not report directly to either the MFA or

MUR. Giorgi went so far as to say that "even in the presence of written instructions, ASI can decide to act differently -- even in international relations." Both also noted that bureaucratic control over ASI was complicated in the period immediately prior to the launch because ASI did not have a President or Board of Directors, and was being administered by a
n "External Commissioner."

14. (C) Manfredi and Giorgi said USG concerns regarding the launch of the AGILE satellite from India and the re-export to India of the USML-controlled reaction wheel assembly were discussed at interagency meetings in the weeks prior to AGILE's launch. Manfredi cited meetings between the Italian Embassy in Washington and State Department officials, including one at the Ambassadorial level, and a April 10 meeting at the MFA, attended by the Ecmin and Science Counselor, at which MFA, MUR, and ASI representatives discussed USG concerns regarding AGILE's Indian launch and the related U.S. export license, as examples of the MFA efforts to ensure USG views were taken into consideration prior to AGILE's April 23 launch. In separate meetings, both Manfredi and Giorgi emphasized that the final decision to launch AGILE was ASI's, and that it was within ASI's power as an independent agency to go forward with the launch despite advice from the MFA and MUR to the contrary.

15. (C) Both Manfredi and Giorgi underscored that ASI acted based on assurances from Goodrich (the U.S. exporter) and GOI attorneys that all of the papers regarding the re-export of the reaction wheel assembly were in order, and noted that copies of the relevant papers were provided to the Embassy at the April 10 meeting. Ecmin responded that Embassy Rome and Department officials had told ASI, the MFA, the Italian Embassy in Washington, and representatives of Carlo Gavazzi Space (AGILE's manufacturer) of USG concerns over the

re-export to India of the reaction wheel assembly and that the Embassy had requested the papers provided at the April 10 meeting over a year earlier. These subsequent meetings and expression of USG concerns should have overridden any assurances based on previous paperwork. Ecmin also noted that the provision of documents on April 10 was too little, too late. AGILE was already in India, in apparent violation of U.S. export control regulations, and only two weeks away from launch when the GOI provided the USG with copies of the papers upon which ASI based its decision to go ahead with AGILE's launch.

16. (C) At the conclusion of his meetings at the MFA and MUR, Ecmin noted that ASI, an independent GOI agency, had disregarded repeated USG expressions of concern over the re-export of a USML-controlled item to India and possible violations of U.S. export control regulations. Regardless of ASI's ability to act autonomously and the MFA and MUR's lack of oversight over ASI, ASI's apparent indifference to USG concerns calls into question the GOI's ability to live up to commitments the GOI makes when it receives sensitive goods and services controlled by U.S. export regulations. Both Manfredi and Giorgi said they understand the USG concerns, but reiterated that the decision to launch was ASI's. Manfredi ended the meeting by expressing hope that repercussions from this case will not have negative consequences for other areas of USG-GOI cooperation.

ASI: "THE BUCK STOPS HERE"

17. (C) Ecmin delivered ref B demarche to ASI's newly-installed President, Giovanni Bignami, on May 31. Bignami, who took office on April 26, three days after AGILE's launch, said that "I am ASI's President and have full responsibility for this situation." He elaborated that "I know exactly what I'm talking about -- we have all of the answers," and concluded that "the buck stops here." After delivery of ref B points, Bignami turned over copies of documents which he said justified ASI's decision to proceed with AGILE's launch despite USG objections and statements of

concern. A description of these papers, which were also provided to the Embassy during the April 10 meeting at the MFA, follows:

-- A letter dated June 17, 2004 from Goodrich Optical and Space Systems to PM/DTC. The letter's subject is "DSP-5 Application, Request for Permanent Export to Italy of Unclassified Defense Articles (Reaction Wheel Assembly) for

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AGILE Satellite Program." The letter specifies that AGILE's launch "company/vehicle/site/date" have been changed from those in the original license application, and lists the original, approved, Technical Assistance Agreement (TAA) as number TA 1177-03. The letter identifies AGILE's new launch site as "Sriharikota - India," and states that AGILE will be launched by "Antrix" using a "PSLV." This letter bears the reference number "04BEUAP0068."

-- A permanent export license, number 931427, issued by PM/DTC on June 24, 2004, for the export of a reaction wheel assembly. The destination country (item three) is listed as Italy; the applicant is identified as Goodrich Corp.; the foreign end use (item 14) is listed as ASI (Italian Space Agency), Rome, Italy; the foreign consignee (item 16) is listed as Carlo Gavazzi Space, Milan, Italy. The number "04BEUAP0068" is printed below item 20 (Specific Purpose). Item 20 identifies the reaction wheel assembly as "Part of Attitude Ctrl Sys for AGILE Satellite Program (Reference Case TA-1177-03)."

-- An invoice from Goodrich Optical Space Systems dated February 1, 2005, for the reaction wheel assembly. The consignee is listed as Carlo Gavazzi Space, Milan, Italy. The invoice references "State Department License 931427" and states that "these commodities are authorized by the U.S. Government for export only to Italy for use by the parties named on Department of State Export License 931427 (Carlo Gavazzi Space and Italian Space Agency) and to the launch site in India."

Scanned copies of these documents will be sent to the Department (EUR/WE, PM/DTC, and PM/DTCP) via classified e-mail.

18. (C) Bignami asserted that these documents show that ASI acted within its rights in re-exporting the reaction wheel assembly to India and in launching AGILE using an Indian PSLV

rocket. According to Bignami, Goodrich's June 17, 2005, letter notified the Department of ASI's intent to launch AGILE from India. (Note. ASI had previously planned to launch the rocket from Kazakhstan, but switched launch sites to India for cost reasons. End note.) According to Bignami, PM/DTC's inclusion of the Goodrich letter's reference number in PM/DTC's June 24, 2004, license shows PM/DTC received Goodrich's June 17 letter and was aware of ASI's plans to launch AGILE from India. Bignami argued that inclusion of the reference number of the June 17 letter in the June 24 export license acknowledges receipt of the letter and notification that AGILE will be launched from India. Finally, according to Bignami, issuance of the license signified approval of ASI's decision to switch launch sites from Kazakhstan to India.

19. (C) Ecmin thanked Bignami for his explanation, but added that part of the problem we have faced in bringing clarity to the export licenses related to AGILE is the lack of a timely response to our year-old requests for documents from ASI and Carlo Gavazzi Space. Goodrich's June 17, 2004, letter would have much more useful if it had been provided to the USG prior to April 10, 2007, two weeks before AGILE's launch. Ecmin also noted that it is highly unlikely the Department would be able to issue a license for the export of a sensitive USML-controlled item to India only a week after receiving notice of a change in launch site, and that India is not named anywhere on the June 24, 2004, export license. While we did not raise the issue with Bignami, it is also

worth noting that the copy of the Goodrich letter provided by the GOI does not indicate when it was received by PM/DTC. Additionally, it is not clear to us that the reference number on the letter is unique to the June 17 letter, it may refer to all correspondence between Goodrich and PM/DTC related to the license for the reaction wheel assembly. If that is the case, the reference number included on the June 24 license may have been copied from an earlier letter from Goodrich related to the same export.

¶10. (C) Moving beyond the significance of the documents presented by Bignami, Ecmin pointed out the larger problem of ASI's disregard of USG concerns over the re-export of the reaction wheel assembly to India. These concerns were made known to the GOI on numerous occasions in Rome and Washington, and appeared to have been disregarded in the weeks leading up to AGILE's launch. Bignami responded that although ASI was aware of the USG concerns, it never received anything in writing telling ASI not to move forward with AGILE's export to India and its subsequent launch. In the absence of a written document explicitly revoking the export license, Bignami said he considered the export license and assurances from Goodrich and Agile that everything was in order sufficient for ASI to proceed with AGILE's launch. In fact, he observed that ASI believed USG concerns to be based on a bureaucratic error made by the Department, and hence, inconsequential. Ecmin responded that conveying USG concerns to the Italian Ambassador in Washington should have sufficed to bring the launch process to a stop.

¶11. (C) Bignami ended the meeting by noting that, as a practical matter, once Carlo Gavazzi Space finished AGILE's assembly, the satellite was sealed, and there was no way to gain access to the reaction wheel assembly without unsealing the satellite and taking it apart. Additionally, he said that when the sealed satellite reached India, it was monitored at all times by ASI personnel prior to being placed inside the PSLV's faring and launched into space.

¶12. (C) Comment. This case is disturbing on several levels. First, we are stunned by the MFA and MUR's seeming inability to force ASI, an Italian government agency, to abide by technology transfer control agreements entered into by the GOI, and Bignami's assertion that ASI was correct to act on assurances provided by Goodrich and Carlo Gavazzi Space in proceeding with AGILE's launch from India. ASI's cavalier attitude towards U.S. export control regulations and its dismissal of repeated USG statements of concern over a lengthy period of time concerning the re-export of the reaction wheel assembly to India is also disturbing. Our experience with the AGILE case points to the need for high-level USG-GOI export control consultations, first proposed ref D, to bring U.S. and Italian export control officials together and to ensure that GOI officials understand their obligations under technology transfer agreements entered into between the U.S. and Italy. End comment.

¶13. (U) Action request. Post requests Department's assistance in responding quickly and definitively to ASI's assertion that it had the export licenses necessary to re-export the reaction wheel assembly to India. End action requested.
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